

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

SATNAM SINGH, #A75-252-694,
Petitioner

v.

I.C.E., et al.,
Respondents

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CIVIL ACTION NO. RWT-05-1464

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MEMORANDUM OPINION

Satnam Singh is being held in Department of Homeland Security, Bureau of Immigration and Customs Enforcement (“ICE”) custody at the Wicomico County Detention Center in Salisbury, Maryland, awaiting deportation. On May 27, 2005, he filed this 28 U.S.C. § 2241 Petition for Writ of Habeas Corpus, pro se, claiming that his continued ICE detention violates the dictates of Zadvydas v. Davis, 533 U.S. 678 (2001).

Respondents¹ have filed a Response to the Petition for Writ of Habeas Corpus as well as a supplement thereto. (Paper Nos. 3 and 5). Petitioner has filed a Reply. (Paper No. 4). No oral argument is necessary because the parties have fully briefed the issues. *See* Local Rule 105.6 (D. Md. 2004). For the reasons stated below, the court will, by separate Order, dismiss the Petition for Writ of Habeas Corpus.

I. Background

Petitioner is a native and citizen of India. He attempted to enter the United States on November

¹ Respondents request that I.C.E. be dismissed as a respondent in these proceedings relying on Rumsfeld v. Padilla, ___ U.S. ___, 124 S.Ct. 2711, 2717-18 (June 28, 2004) (proper Respondent to a “pure detention” Petition for Writ of Habeas Corpus is the warden of the detention facility where the alien is detained). The request shall be granted.

14, 1992, at Niagara Falls, New York, by claiming to be a United States citizen. (Paper No. 3, Ex. A.) He was charged as being inadmissible to the United States as an alien without a valid visa or entry document and as an alien who attempted to enter by fraud or materially misrepresenting a material fact. (Id.) Petitioner failed to appear for his July 1, 1993 hearing and was ordered excluded and deported. (Id.)

On November 29, 1996, Petitioner filed an application for asylum. (Id.) On January 17, 1997, Petitioner was served with an Order to Show Cause charging him as being deportable as an alien who entered without inspection. (Id.) On October 16, 1997, after Petitioner withdrew his application for asylum, the Immigration Judge (“IJ”) found Petitioner deportable as charged but granted him the privilege of departing voluntarily on or before April 16, 1998, with an alternative Order that Petitioner be deported to India. (Id.) Petitioner did not appeal the IJ’s decision to the Board of Immigration Appeals (“BIA”). (Id.)

Petitioner did not voluntarily depart and so became subject to an administrative final order of deportation. Petitioner was taken into ICE custody on May 5, 2004. (Id.) Petitioner’s motion to reopen his immigration proceedings was denied by the IJ on June 10, 2004. His appeal of that decision was denied by the BIA on September 8, 2004. (Id.) The Embassy of India has issued a travel document authorizing Petitioner’s repatriation. ICE intends to scheduled Petitioner’s deportation from the United States on or after July 30, 2005. (Paper No. 5.)

II. Analysis

In Zadvydas v. Davis, 533 U.S. 678 (2001), the Supreme Court held that post-removal order detention under 8 U.S.C. § 1231(a) is implicitly limited to a period reasonably necessary to bring about

the alien's removal from the United States and does not permit indefinite detention.² In sum, the Supreme Court found that after an order of deportation became final, an alien may be held for a six month period.

After this period:

[o]nce the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing. And for detention to remain reasonable, as the period of prior post-removal confinement grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink. This 6-month presumption, of course, does not mean that every alien not removed must be released after six months. To the contrary, an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.

Zadvydas, 533 U.S. at 701.

Petitioner has failed to meet his burden of proof in that he has offered no evidence that his removal is not significantly likely in the reasonably foreseeable future. To the contrary, Respondent's recent filings with the Court, evidencing that the necessary travel documents have been received and that Petitioner's deportation to India is now imminent,³ refute any such contention and render Petitioner's habeas challenge to his post-order detention under Zadvydas moot.

III. Conclusion

In light of the foregoing the Petition for Habeas Corpus relief shall be dismissed. A separate Order follows.

8/15/05

Date

/s/

ROGER W. TITUS

UNITED STATES DISTRICT JUDGE

²The Supreme Court has recently held the *Zadvydas* applies to aliens, like Petitioner, who were found to be inadmissible. *Clark v. Suarez-Martinez*, ___ U.S. ___, 125 S.Ct. 716, 722 (Jan. 12, 2005).

³Respondent will be required to file a status report advising the court of Petitioner's removal.